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*Counsel for Reorganized Debtor  
American West Development, Inc.*

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In Re:

American West Development, Inc.,

Reorganized Debtor.

Case No. BK-S-12-12349-MKN

Chapter 11

**REORGANIZED DEBTOR'S  
STATEMENT REGARDING EX PARTE  
APPLICATION ON ORDER  
SHORTENING TIME TO HEAR  
MOTION TO STRIKE [...]**

Reorganized Debtor American West Development, Inc. ("AWDI"), by and through its counsel, the law firm of Fox Rothschild LLP, respectfully submits this Statement regarding the *Ex Parte Application on Order Shortening to Hear Motion to Strike Portions of Reply to Opposition to Reorganized Debtor's Motion (I) To Reopen Chapter 11 Case; and (II) For An Order To Show Cause Why Scott Lyle Graves Canarelli And His Counsel Should Not Be Held In Contempt For Violating Plan Discharge, Exculpation, Release And Injunctive Provisions; Or, in the Alternative, Motion for Leave to File Supplemental Declarations* [Docket No. 1101] (the "OST Application").

In support of this Statement, AWDI relies upon the Declaration of Nathan A. Schultz (the "Schultz Declaration") filed concurrently herewith.

**STATEMENT**

1. AWDI files this Statement in order to correct the record regarding the OST Application.

2. On March 15, 2018 at approximately 10:47 a.m. Pacific time, counsel for Scott Canarelli sent an email to counsel for AWDI requesting that AWDI agree to have certain matters heard on shortened time at the hearing scheduled for March 21, 2018.

3. At approximately 2:05 p.m. Pacific time, counsel for AWDI responded to confirm that the request was being reviewed and that a response would be forthcoming.

4. At approximately 2:46 p.m. Pacific time, counsel for Scott Canarelli repeated the request that AWDI consent to an order shortening time.

5. At approximately 3:39 p.m. Pacific time, counsel for AWDI responded that AWDI would not object to an order shortening time based on counsel's understanding of the underlying relief that would be sought (with all rights reserved as to such relief).

6. At approximately 3:45 p.m. Pacific time, counsel for Scott Canarelli provided (for the first time) a draft of the pleading that was to be the subject of the shortened time request and once again requested that AWDI consent to an order shortening time.

7. At approximately 4:19 p.m. Pacific time, counsel for AWDI responded by:

- a. putting counsel for Scott Canarelli on notice regarding certain false, inappropriate and offensive allegations contained in the pleading,
- b. advising that AWDI would not oppose a request to shorten time provided that counsel for Scott Canarelli rectified these issues and provided AWD with a full and fair opportunity to respond in writing to make the record clear, and
- c. requesting that counsel for Scott Canarelli make a proposal to address these issues.

8. Counsel for Scott Canarelli filed the OST Application (including the pleading containing the offending material) at approximately 4:06 p.m. Pacific time—which was only 21 minutes after first providing the AWDI's counsel with the pleading and before AWDI's counsel had an opportunity to respond.

9. In the Attorney Information Sheet filed in support of the OST Application [Docket No. 1103], counsel for AWDI inaccurately attested that AWDI "Has not stated whether or not they agree to

1 the OST” despite the fact that counsel for AWDI responded to the initial request at approximately 3:39  
2 p.m. (stating that AWDI would not object to an order shortening time).

3 10. As consistently communicated by AWDI’s counsel to counsel for Scott Canarelli,  
4 AWDI does not object to the OST Application, provided that AWDI is given a full and fair opportunity  
5 to respond and make the record clear regarding the relief requested, and except with respect to the false,  
6 inappropriate and offensive allegations contained in the underlying pleading.

7 11. Emails containing the communications referred to herein are attached as Exhibit 1 to the  
8 Schultz Declaration.

9 Dated this 16th day of March, 2018.

10 **FOX ROTHSCHILD LLP**

11  
12 By /s/Brett A. Axelrod  
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